

## Regular Meeting

The regular meeting of the City Council of the City of Fitchburg was held in the Memorial Middle School Library, 615 Rollstone St., Fitchburg, on July 5, 2016. The meeting was called to order by President Kushmerek at 7:02 P.M. The Clerk called the roll and nine (9) members were present. Councillor Donnelly arrived at 7:18 P.M. Councillor Tran arrived at 7:42 P.M. The meeting opened with a salute to the Flag led by Councillor Joseph.

## PUBLIC FORUM

## Public Forum

1. Sharon Bernard, Fitchburg Public Library Director, spoke in support of granting Order 194-16 under suspension due to time constraints.
2. Knute Alfredson, M.D., property and business owner on Main Street, spoke in support of petitions 196-16 and 197-16. He stated he has collected 400 signatures opposing the one-lane Main Street plan. He stated that only the proponents of the plan knew about the discussion. He stated the plan will decrease access to Main Street stores, impede police and fire travel and response and requested that a hearing be held.
3. Ed Radovonic, Dentist on Main Street spoke in support of petitions 169-16 and 197-16. He is concerned about parking, especially for his patients in wheelchairs and increased traffic congestion.
4. Chris Iosua, owner of Destare, Chaibo and member of PRIDE, stated that PRIDE found overwhelming support for the one-lane Main Street project, sees it as a catalyst for change in the downtown area and a method of slowing down traffic.
5. Glen Fossa, owner of 8 Lunenburg Street business, stated he is in favor of a one-lane Main Street, that it is in the best interest of the City and that by narrowing the street it will decrease speed and eliminate the use of Main Street as a highway.
6. Lewis Chamberlain, cab driver, spoke in favor of petitions 196-16 and 197-16. He stated he uses Main Street all day as a cab driver and slowing the traffic down will negatively impact his ability to transport fares.
7. Bill McSheehy, Mt. Vernon St. resident, President of the Historical Society and Vice President of Fitchburg Cultural Alliance stated that he is in favor of a one-lane Main St, that it will improve pedestrian safety and that many opportunities were provided to the public to speak on the matter.
8. David Nickless, owner of Main Street office buildings, spoke in support of petitions 196-16 and 197-16. He states that he wants people on Main Street. He also spoke regarding petition 195-16, states that he has many concerns about it and wants to be notified when it is placed on the Finance Committee agenda. He also stated that he is in favor of petitions 106-16 and 107-16 that are scheduled tonight for public hearing.
9. Peter Cote, owner of 310 Main Street, spoke in favor of one-lane Main Street.



Communication

His Honor the Mayor

Appointment Letters

10.Sam Squailia, speaking in favor of one-lane Main Street, read an excerpt from a letter to the editor she recently wrote. She stated one-lane Main Street will slow traffic and address parking and loading zones while allowing eligiblility for grants. She stated the Council should not reverse their decision.

11.Josiah Richards spoke in favor of one-lane Main Street and encouraged the Council to move forward with the plan.

12.Ken Posco, Fitchburg resident and business owner stated that the one-lane Main Street plan is a Public Safety issue but that it went to Public Works Committee. He said the plan was an inside job with no allowance for public input.

13.Marc Dohan spoke in support of one-lane Main Street and the calming effect it will have on Main Street. He said if it does not work it can be reversed.

14.Matt Fournier, owner of Elite Construction and Main Street property owner spoke in support of one-lane Main Street. He said it will increase walkability and the ability to do sidewalk sales. Time to try something new.

15.Jenna David spoke in support of one-lane Main Street.

16.Debbie Joslin, 3 Village Crossing, spoke in opposition to one-lane Main Street. She said the city should take care of other problems like improving the sidewalks on Main Street.

17.Shirley Rickman, 26 School Street, spoke in opposition to one-lane Main Street.

18.Robert Korb, 26 School Street, spoke in opposition to one-lane Main Street. He stated that it will increase traffic congestion and people will avoid Main Street.



Communication

His Honor the Mayor

Appointment Letters

COMMUNICATIONS FROM HIS HONOR THE MAYOR

1. Letter of appointment - Election Workers



**STEPHEN L. DINATALE**  
**MAYOR**

166 BOULDER DRIVE  
FITCHBURG, MA 01420  
TEL. (978) 829-1801

*The City of Fitchburg*  
*Massachusetts*  
**OFFICE OF THE MAYOR**

FITCHBURG CITY CLERK

16 JUN 24 14 34

**AARON TOURIGNY**  
CHIEF OF STAFF  
ATOURIGNY@FITCHBURGMA.GOV

**JOAN DAVID**  
ADMINISTRATIVE AIDE  
JDAVID@FITCHBURGMA.GOV

June 24, 2016

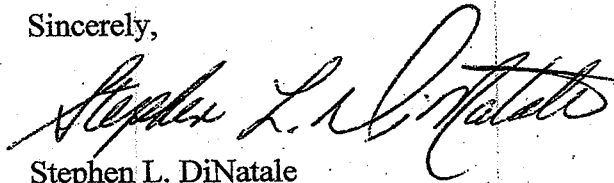
The Honorable City Council  
Fitchburg Municipal Offices  
166 Boulder Drive, Suite 108  
Fitchburg, MA 01420

Dear Honorable Councilors,

I hereby appoint the following individuals to serve as Election Workers for one year, with the term to start on September 1, 2016 and expire on August 31, 2017.

Please feel free to contact me with any questions.

Sincerely,

  
Stephen L. DiNatale  
Mayor



*City of Fitchburg,* July 5, 2016

Communication

His Honor the Mayor

Appointment Letters



**CITY OF FITCHBURG  
OFFICE OF THE CITY CLERK**

166 Boulder Drive  
Fitchburg MA 01420

Anna M. Farrell, City Clerk  
(978) 829-1820  
[www.fitchburgma.gov](http://www.fitchburgma.gov)

June 24, 2016

The Honorable Stephen L. DiNatale  
Mayor, City of Fitchburg

Dear Mayor DiNatale,

As you know, the City must appoint election workers each year during the month of July to serve for the coming year. Accordingly, I respectfully request that you appoint the individuals on the attached list. In order for the confirmation of appointments to occur in time for the 2016 fall elections, your appointment letter must be read at the July 5, 2016 City Council meeting for referral to the Appointments Committee and subsequent confirmation on July 19, 2016.

Very truly yours,

A handwritten signature in black ink, appearing to read "Anna M. Farrell", is written over a horizontal line.

Anna M. Farrell  
City Clerk

C: City Councillors



Communication

His Honor the Mayor

Appointment Letters

2. Letter of appointment - Richard Liberatore to the Airport Commission.



*The City of Fitchburg*  
*Massachusetts*  
OFFICE OF THE MAYOR

**STEPHEN L. DINATALE**  
MAYOR

166 BOULDER DRIVE  
FITCHBURG, MA 01420  
TEL. (978) 829-1801

**AARON TOURIGNY**  
CHIEF OF STAFF

ATOURIGNY@FITCHBURGMA.GOV

**JOAN DAVID**  
ADMINISTRATIVE AIDE  
JDAVID@FITCHBURGMA.GOV

June 29, 2016

The Honorable City Council  
Fitchburg Municipal Offices  
166 Boulder Drive, Suite 108  
Fitchburg, MA 01420

Dear Honorable Councilors,

I hereby reappoint Mr. Richard Liberatore of 404 Westminster Hill Road, Fitchburg, MA, as a member of the Airport Commission for a term to expire on July 1, 2019.

Please feel free to contact me with any questions.

Sincerely,

Stephen L. DiNatale  
Mayor

FITCHBURG CITY CLERK  
16 JUN 29 12 34

Appointments read and referred to the Appointments Committee.



*City of Fitchburg*

July 5, 2016

**COMMUNICATION**

Mary Jo Bohart, Economic Development Director  
Re: City Council Petition #106-16

Communication

Mary Jo Bohart  
Economic Development  
Director

Re: Petition #106-16

7/5/2016  
Read



*The City of Fitchburg*  
*Massachusetts*  
**OFFICE OF THE MAYOR**

**STEPHEN L. DINATALE**  
**MAYOR**  
166 BOULDER DRIVE  
FITCHBURG, MA 01420  
TEL. (978) 829-1801

**AARON TOURIGNY**  
CHIEF OF STAFF  
ATOURIGNY@FITCHBURGMA.GOV

**JOAN DAVID**  
ADMINISTRATIVE AIDE  
JDAVID@FITCHBURGMA.GOV

June 30, 2016

Michael Kushmerek, Council President  
Fitchburg City Council  
166 Boulder Drive  
Fitchburg, MA 01420

RE: City Council Petition #106-2016 (*Planned Development District rezoning request*)

Dear Councilor Kushmerek:

I regret that I will be traveling out of town on July 5, and thus cannot attend that evening's City Council session where you will hold a public hearing regarding Petition #106-2016 for a *Planned Development District* rezoning request by Steve Marsden relative to his property on Westminster Hill Road.

As a result, I wish to submit this letter to the City Council to formally offer my thoughts on merits of the proposal, as Economic Development Director for the city. Overall, Fitchburg is quite fortunate to have an opportunity to strengthen our commercial tax base while also building upon commercial recreation to foster added tourism.

The proximity of the subject site to Route 2, Great Wolf Lodge, and the new MBTA commuter rail station now under construction in West Fitchburg were each key factors in Fitchburg becoming a desirable location for the proposed *Game On! Fitchburg* soccer sports facility. Through this project, Fitchburg will be able to build our *brand* in the minds of families who visit our city for recreation tournaments. Further, once here, those visitors will spend dollars in our local businesses as well which strengthens our local economy.

As your board gives careful consideration to this rezoning request, I trust the Council will recognize the economic development significance of this special opportunity which has come before us.

Respectfully,

Mary Jo Bohart  
Economic Development Director

Communication read and referred to petition #106-16.



Communication  
Pension Reserves  
Investment  
Management Board

COMMUNICATION  
Pension Reserves Investment Management Board

**Pension Reserves Investment Management Board**  
84 State Street, Suite 250  
Boston, Massachusetts 02109

Deborah B. Goldberg, Treasurer and Receiver General, Chair  
Michael G. Troitsky, CFA, Executive Director



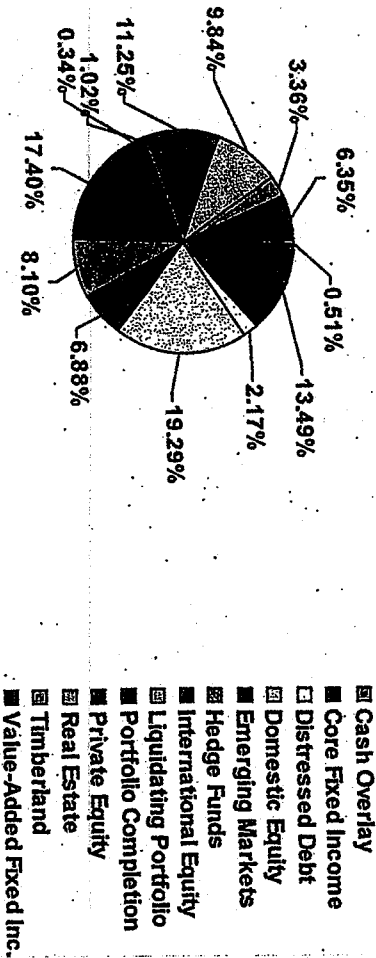
**Fitchburg Retirement System**  
General Allocation Account  
May 01, 2016 to May 31, 2016

| Month To Date  | Fiscal Year To Date | Calendar Year To Date  |
|--|---------------------|------------------------|
| 94,300,550.99  | 92,975,211.21       | 94,859,956.33          |
| 64,037.18  | 740,397.40          | 2,504,631.84           |
| 0.00   | 648,979.56          | (3,000,000.00)         |
| 94,364,588.17  | 94,364,588.17       | 94,364,588.17          |
| Net Change in Investment Value represents the net change through investment activities as follows: |                     |                        |
| Gross Investment Income:   | 314,319.68          | 2,271,796.93           |
| Less Management Fees:  | (10,554.90)         | (395,214.65)           |
| Net Investment Income:   | 303,764.78          | 1,876,582.28           |
| Net Fund Unrealized Gains/Losses:  | (494,696.68)        | (3,093,576.13)         |
| Net Fund Realized Gains/Losses:  | 254,969.08          | 1,957,391.25           |
| Net Change in Investment Value as Above:   | 64,037.18           | 740,397.40             |
|  |                     | <u>\$94,364,588.17</u> |

As of May 31, 2016 the net asset value of your investment in the PRIT Fund was:

\$94,364,588.17

**PRIT Fund Core Asset Allocation**  
As of May 31, 2016



If you have any questions regarding your statement, please contact your Senior Client Services Officer Paul Todisco (617) 946-8423.  
A detailed statement of your account is attached to this summary sheet.

Communication read and placed on file in the City Clerk's Office.



REPORTS OF COMMITTEES

Appointments Committee - Oral Report  
Meeting of July 5, 2016

The Appointments Committee recommended the following Appointment be confirmed:

New Appointments:

Energy Commission Board

Andrew Cordio, 825 John Fitch Highway Unit 12  
(For a term to expire April 1, 2019)

Report accepted. Appointment confirmed by unanimous vote. 11 members present. Board consists of 11 members.

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The Appointments Committee recommended the following Appointments be confirmed:

Permanent Reserve Police Officers

Gregory A. Pinkerton  
Nathan D. Lamkin  
Barry G. Hyvarinen Jr.  
Liana K. Alicea  
Martin Ortiz Jr.

Report accepted. Appointments confirmed by unanimous vote. 11 members present. Board consists of 11 members.  
Upon confirmation, Appointees were sworn in by the City Clerk.

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Finance Committee  
Meeting of June 28, 2016

The Finance Committee recommended the following Order be adopted:

181-16. ORDERED THAT: There be and hereby is transferred the sum of TWELVE THOUSAND DOLLARS (\$12,000) from WATER PERSONAL SERVICES to WATER PERSONAL SERVICES OVERTIME.

Report read and accepted. Order adopted by unanimous vote. 11 members present. Board consists of 11 members.  
Order signed by the Mayor July 8, 2016.

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The Finance Committee recommended the following Order NOT be adopted:

182-16. ORDERED THAT: There be and hereby is transferred the sum of FIVE THOUSAND DOLLARS (\$5,000) from AIRPORT EXPENSES to accounts as follows: \$4,400 to AIRPORT PERSONAL SERVICES OVERTIME and \$600 to AIRPORT PERSONAL SERVICES.

Report read and accepted. Order NOT adopted by unanimous vote. 11 members present. Board consists of 11 members.  
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Reports of  
Committees

## Finance Committee

The Finance Committee recommended the following Orders be adopted:

- 189-16. ORDERED THAT: There be and hereby is transferred the sum of SIX THOUSAND SIX HUNDRED DOLLARS (\$6,600) from AIRPORT EXPENSES to accounts as follows: \$6,000 to AIRPORT PERSONAL SERVICES OVERTIME and \$600 to AIRPORT PERSONAL SERVICES.
- 183-16. ORDERED THAT: There by and hereby is transferred the sum of TWENTY ONE THOUSAND DOLLARS (\$21,000) to CEMETERY MASTER PLAN-PHASE II from DPW CAPITAL-OAK HILL ROAD BRIDGE.
- 184-16. ORDERED THAT: There be and hereby is transferred the sum of FORTY THOUSAND DOLLARS (\$40,000) to DPW-ADMINISTRATION/ENGINEERING EXPENSES-DOCUMENT SCANNING from accounts as follows:  
DPW TRAFFICE SIGNALS EXPENSES - \$8,000  
DPW HIGHWAY GENERAL EXPENSES - \$7,457  
DPW MUNICIPAL GARAGE EXPENSES - \$17,000  
DPW CAPITAL-OAK HILL ROAD BRIDGE -\$7,453
- 190-16. ORDERED THAT: Consistent with MGL Chapter 43, Section 30, there be and hereby is appropriated the sum of THIRTY THOUSAND DOLLARS (\$30,000), same to be charged against AVAILABLE FUNDS and credited to DPW - HIGHWAY GENERAL EXPENSES (RIGHT OF WAY TAKINGS) for the purpose of taking temporary and permanent easements for the South Street Elementary School Right of Way Improvement Project.
- 191-16. ORDERED THAT: There be and hereby is appropriated the sum of ONE HUNDRED THOUSAND DOLLARS (\$100,000), same to be credited to STABILIZATION FUND and charging against AVAILABLE FUNDS.

Report read and accepted. Orders adopted by unanimous vote. 11 members present. Board consists of 11 members.  
Orders signed by the Mayor July 8, 2016.

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Reports of  
Committees

Public Safety  
Committee

**Public Safety Committee - Oral Report**  
**Meeting of July 5, 2016**

The Public Safety Committee recommended the following Petition  
be granted:

84-2016. Sam Gandor, for Class II Car Dealer License at 339  
River Street.

84 - 2016

APPLICATION FOR A LICENSE TO BUY, SELL,  
EXCHANGE OR ASSEMBLE SECOND HAND  
MOTOR VEHICLES OR PARTS THEREOF.

APPLICANT WILL NOT FILL THE FOLLOWING BLANKS

Application No. ....

Class .. II .. License No. ....

Name .... Sam Gandor .....

St. and No. .... 339 River Street .....

City -- Town .... Fitchburg, MA 01420 .....

Date Issued .....

Remarks .. In City Council May 3, 2016 .....

Referred to the Public Safety Committee .....

Date: .. The Public Safety Committee recommended  
the Petition be .....

Granted .. Given Leave to Withdraw .....



Reports of  
CommitteesPublic Safety  
Committee (cont)

Developer135@gmail.com

THE COMMONWEALTH OF MASSACHUSETTS

City of Fitchburg

APPLICATION FOR A LICENSE TO BUY, SELL, EXCHANGE  
OR ASSEMBLE SECOND HAND MOTOR VEHICLES  
OR PARTS THEREOFFITCHBURG CITY CLERK  
APR 21 13 08

I, the undersigned, duly authorized by the concern herein mentioned, hereby apply for a .....  
class license, to Buy, Sell, Exchange or Assemble second hand motor vehicles or parts thereof, in accordance with  
the provisions of Chapter 140 of the General Laws.

1. What is the name of the concern? Sam Gander

Business address of concern: No. 339 River St.

Fitchburg MA

City — Town.

2. Is the above concern an individual, co-partnership, an association or a corporation?

Individual

3. If an individual, state full name and residential address.

Sam Gander 3 Edgewood St.

Shrewsbury MA 01545

4. If a co-partnership, state full names and residential addresses of the persons composing it.

~~John's Service of Fitchburg~~

Sole Proprietor

5. If an association or a corporation, state full names and residential addresses of the principal officers.

President Sam Gander

Secretary Sam Gander

Treasurer Sam Gander

6. Are you engaged principally in the business of buying, selling or exchanging motor vehicles? Yes

If so, is your principal business the sale of new motor vehicles? No

Is your principal business the buying and selling of second hand motor vehicles? Yes

Is your principal business that of a motor vehicle junk dealer? No



7. Give a complete description of all the premises to be used for the purpose of carrying on the business.

Auto Dealer, garage, gas

8. Are you a recognized agent of a motor vehicle manufacturer? ☒ No (Yes or No)

If so, state name of manufacturer

9. Have you a signed contract as required by Section 58, Class 1? ☒ No (Yes or No)

10. Have you ever applied for a license to deal in second hand motor vehicles or parts thereof? ☒ No (Yes or No)

If so, in what city — town

Did you receive a license? ☒ No (Yes or No)

For what year?

11. Has any license issued to you in Massachusetts or any other state to deal in motor vehicles or parts thereof ever been suspended or revoked? ☒ No (Yes or No)

Sign your name in full. *Sam Leach*  
(Duly authorized to represent the concern herein mentioned)

Residence, 3 Edgewood Rd. Shirley, MA 01545

### IMPORTANT

EVERY QUESTION MUST BE ANSWERED WITH  
FULL INFORMATION, AND FALSE STATEMENTS  
HEREIN MAY RESULT IN THE REJECTION OF  
YOUR APPLICATION OR THE SUBSEQUENT  
REVOCATION OF YOUR LICENSE IF ISSUED.

NOTE: If the applicant has not held a license in the year prior to this application, he must file a duplicate of the application with the registrar. (See Sec. 59)



Reports of  
Committees

Public Safety  
Committee (cont)

APPLICANT WILL NOT FILL THE FOLLOWING BLANKS

Application after investigation .....  
(Approved or Disapproved)

License No. .... granted ..... 19 .... Fee \$ .....

Signed.....

CHAPTER 140 OF THE GENERAL LAWS, TER. ED., WITH AMENDMENTS THERETO (EXTRACT)

SECTION 57. No person, except one whose principal business is the manufacture and sale of new motor vehicles but who incidentally acquires and sells second hand vehicles, or a person whose principal business is financing the purchase of or insuring motor vehicles but who incidentally acquires and sells second hand vehicles, shall engage in the business of buying, selling, exchanging or assembling second hand motor vehicles or parts thereof without securing a license as provided in section fifty-nine. This section shall apply to any person engaged in the business of conducting auctions for the sale of motor vehicles.

SECTION 58. Licenses granted under the following section shall be classified as follows:

Class 1. Any person who is a recognized agent of a motor vehicle manufacturer or a seller of motor vehicles made by such manufacturer whose authority to sell the same is created by a written contract with such manufacturer or with some person authorized in writing by such manufacturer to enter into such contract, and whose principal business is the sale of new motor vehicles, the purchase and sale of second hand motor vehicles being incidental or secondary thereto, may be granted an agent's or a seller's license; provided, that with respect to second hand motor vehicles purchased for the purpose of sale or exchange and not tax in trade for new motor vehicles, such dealer shall be subject to all provisions of this chapter and of rules and regulations made in accordance therewith applicable to holders of licenses of class 2.

Class 2. Any person whose principal business is the buying or selling of second hand motor vehicles may be granted a used car dealer's license.

Class 3. Any person whose principal business is the buying of second hand motor vehicles for the purpose of remodeling, taking apart or rebuilding the same, or the buying or selling of parts of second hand motor vehicles or tires, or the assembling of second hand motor vehicle parts, may be granted a motor vehicle junk license.

SECTION 59. The police commissioner in Boston and the licensing authorities in other cities and towns may grant licenses under this section which shall expire on January first following the date of issue unless sooner revoked. The fees for the licenses shall be fixed by the licensing board or officer, but in no case shall exceed \$100. dollars. Application for license shall be made in such form as shall be approved by the registrar of motor vehicles, in sections fifty-nine to sixty-six, inclusive, called the registrar, and if the applicant has not held a license in the year prior to such application, such application shall be made in duplicate, which duplicate shall be filed with the registrar. No such license shall be granted unless the licensing board or officer is satisfied from an investigation of the facts stated in the application and any other information which they may require of the applicant, that he is a proper person to engage in the business specified in section fifty-eight in the classifications for which he has applied, that said business is or will be his principal business, and that he has available a place of business suitable for the purpose. The license shall specify all the premises to be occupied by the licensee for the purpose of carrying on the licensed business. Permits for a change of situation of the licensed premises or for addition thereto may be granted at any time by the licensing board or officer in writing, a copy of which shall be attached to the license. Cities and towns by ordinance or bylaw may regulate the situation of the premises of licensees within class 3 as defined in section fifty-eight, and all licenses and permits issued hereunder to persons within said class 3 shall be subject to the provisions of ordinances and by-laws which are hereby authorized to be made. No license or permit shall be issued hereunder to a person within said class 3 until after a hearing, of which seven days' notice shall have been given to the owners of property abutting on the premises where such license or permit is proposed to be exercised. All licenses granted under this section shall be revoked by the licensing board or officer if it appears, after hearing, that the licensee is not complying with sections fifty-seven to sixty-nine, inclusive, or the rules and regulations made thereunder, and no new license shall be granted to such person thereafter, nor to any person for use on the same premises, without the approval of the registrar. The hearing may be dispensed with if the registrar notifies the licensing board or officer that a licensee is not so complying. Any person aggrieved by any action of the licensing board or officer refusing to grant, or revoking a license for any cause may, within ten days after such action, appeal therefrom to any justice of the superior court in the county in which the premises sought to be occupied under the license or permit applied for are located. The justice shall, after such notice to the parties as he deems reasonable, give a summary hearing on such appeal, and shall have jurisdiction in equity to review all questions of fact or law and may affirm or reverse the decision of the board or officer and may make any appropriate decree. The decision of the justice shall be final.



Reports of  
Committees

Public Safety  
Committee (cont)



***Fitchburg, Massachusetts***  
*Office of the  
Building Commissioner*

**ROBERT LANCIANI**  
Building Commissioner

**JOHN MORREALE**  
Local Building Inspector

**DAVID LOVERING**  
Local Building Inspector

**KYLE RIDLEY**  
Inspector of Wires

**WAYNE LITTLE**  
Plumbing/Gas Inspector

April 21, 2016

Johnny's Service  
Sam Gandor  
339 River Street  
Fitchburg, MA 01420

RE: Zoning Determination for 339 River St, Map 39 Block 56 Lot 0

Dear Mr. Almousa:

I have reviewed your letter of April 10, 2016, regarding a zoning determination for 339 River St, Map 39 Block 56 Lot 0 and my findings are as follows:

1. Land and buildings at 339 River St, Map 39 Block 56 Lot 0 are located in a Commercial & Automotive District (Zoning Map of the City of Fitchburg and Chapter 181, Section 181.23 of the General Ordinances of Fitchburg as amended).
2. Land and building at 339 River St, Map 39 Block 56 Lot 0 have been put to a Use Group B & S1, Permitted as a matter of right in the Commercial & Automotive District.
3. It is now your intent to run an auto sales business with outside display. You also intend to have a business office, all permitted uses in a Commercial & Automotive District, **However, it will be necessary for you to inquire about and receive a Class II license from the City Council.**
4. Any buildings used in the process of Motor Vehicle Sales and Service, must be in compliance to the requirements of the State Building Code and any and all other applicable codes and regulations. After you have received your Class II License you will be subject to the following:

(a) Unit must be inspected by one of the local building inspectors from this office, so as to show building code compliance.

(b) Once the unit has been shown to be in code compliance, a certificate of inspection will be issued. The fee for a certificate of inspection is seventy five (\$75) dollars.

(c) It will also be necessary for you to acquire a Class II license from the City Council.

City Hall, 166 Boulder Drive, Fitchburg, MA 01420 (978) 829-1880 Fax (978) 829-1963



Reports of  
Committees

Public Safety  
Committee (cont)

Page 2

April 21, 2016

Re: 339 River St, Map 39 Block 56 Lot 0

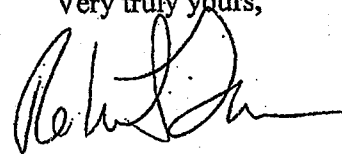
(d) You will need to submit to the Planning Board for Site Plan Review, a plot plan drawn by a Registered Surveyor showing the exact location of off street parking for all cars to be displayed with a three (3) foot buffer from the edge of the sidewalk. This drawing also needs to show where you will be providing adequate parking spaces to accommodate, under normal conditions, the cars of employees, customers, clients and visitors to the premises. . The Plot plan will need to be reviewed by the Planning Board under Section 181.94 Site Plan Review. Site plan will be needed before I can issue any permits from this office.

5. Any and all signs erected must comply with the Zoning Ordinances, Chapter 181, Section 181.535 for Commercial & Automotive district and a permit must be granted before erection of signs.

Request for the sale of automobiles can be granted after you receive your class II license from the City Council. Applications to partition for a Class II license can be obtained from the City Clerk's office Located on the first floor of City Hall.

If you have any questions regarding this zoning determination, please feel free to write or call this office.

Very truly yours,



Robert Lanciani  
Building Commissioner

City Hall, 166 Boulder Drive, Fitchburg, MA 01420 (978) 829-1880 Fax (978) 829-1963

Report read and accepted. Petition granted by unanimous vote.  
11 members present. Board consists of 11 members.

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Reports of  
Committees

Public Safety  
Committee (cont)

The Public Safety Committee recommended the following Petition be granted leave to withdraw:

85-2016. Councillor Dean Tran, to provide the proper caution signage at the corner and intersection of Rollstone Rd. and Brittany Lane.

Report read and accepted. Petition given leave to withdraw by unanimous vote. 11 members present. Board consists of 11 members.

The Public Safety Committee recommended the following Petition be held in Committee:

188-2016. Youssef Hayek dba Auto Service, LLC, 91 Laurel Street, to expand its dealership by adding an additional 70 spaces for cars.

TO THE HONORABLE CITY COUNCIL OF THE CITY OF FITCHBURG

Ladies and Gentlemen:

The undersigned Petition your Honorable Body to

USA Auto service would like to expand its dealership by adding more spaces for cars. We currently removed the gas pumps and tanks underground therefore the space of the property has increased. We would like to use the free space by expanding the dealership. We would like to be granted 70 spaces for cars.

YOUSSEF HAYEK

Report read and accepted. Petition held in Committee by unanimous vote. 11 members present. Board consists of 11 members.

The Public Safety Committee recommended the following Petition be held in Committee:

79-2016. Councillor Marcus DiNatale and James Alexander to place either stop signs or yield signs at the following two intersections: Brierwood Drive/Parker Hill Drive and Parker Hill Drive/Colony Road.

Report read and accepted. Petition held in Committee by unanimous vote. 11 members present. Board consists of 11 members.



Reports of  
CommitteesPublic Works  
CommitteePublic Works Committee  
Meeting of June 28, 2016

The Public Works Committee recommended the following Petition be held in Committee:

207-2015. Kenneth J. Matson, President Matson Homes, Inc. to accept Downey Circle, located within the Parker Hill subdivision as a public way.

Report read and accepted. Petition held in Committee by unanimous vote. 11 members present. Board consists of 11 members.

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The Public Works Committee recommended the following Petition be held in Committee:

181-2015. Councillor Michael Kushmerek to increase the height of a city-owned fence on Blossom Street between the intersections of Elm and Mechanic Streets.

Report read and accepted. Petition held in Committee by unanimous vote. 11 members present. Board consists of 11 members.

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The Public Works Committee recommended the following Petition be Granted:

185-2016. Councillor Michael Kushmerek to install a crosswalk on Pleasant Street near its intersection with High Street.

Report read and accepted. Petition granted by unanimous vote. 11 members present. Board consists of 11 members.

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The Public Works Committee recommended the following Petition be held in Committee:

186-2016. Councillor Jody Joseph and Mr. David Duval to properly reconstruct Falulah Street to Benson Street.

Report read and accepted. Petition held in Committee by unanimous vote. 11 members present. Board consists of 11 members.

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The Public Works Committee recommended the following Petitions be granted:

187-2016. Councillor Amy Green to install a berm at 20 Linden Street.

192-2016. Councillor Amy Green to request the fence sections that are missing on Walnut Street be replaced.

Report read and accepted. Petitions granted by unanimous vote. 11 members present. Board consists of 11 members.



**Planning Board Report on petitions 106-2016 and 107-2016**

The Planning Board submitted the following recommendations:

Re: 106-2016. RECOMMEND IN FAVOR 5/0 however recommends a zoning overlay district with commercial recreation use allowable by Planning Board Special Permit.

Re: 107-2016. RECOMMEND AGAINST 5/0.



**CITY OF FITCHBURG  
PLANNING BOARD**

301 BROAD STREET  
FITCHBURG, MASSACHUSETTS 01420

(978) 829-1891  
PHONE

(978) 345-9687  
FAX

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**MEMO**

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**DATE:** June 30, 2016

**TO:** City Council  
City Clerk

**FROM:** Michael O'Hara, Principal Planner

**SUBJECT:** (1) Petition #106-2016, To adopt a new Section 181.8431  
"Westminster Hill Road Commercial Recreation District"

(2) Petition #107-2016, To change "Commercial Recreation" from  
"N" to Special Permit - Planning Board" in the RR district

On June 14, 2016 the Fitchburg Planning Board held a Public Hearing with notice to abutting property owners and took extensive testimony from the public. The Board appreciates area residents taking the time to attend this hearing and offer valuable comments, many of which the Board has incorporated into their recommendation.

(1) The Board voted 5-0 to recommend Petition in favor of Petition #106-2016. However, instead of adopting the Westminster Hill Road Commercial Recreation District under the "Planned Development District" as noted in the petition, which would adopt a new Zoning district for just those seven parcels, the Board recommends adopting it as an Overlay Zoning District under Section 181.8, which would preserve the underlying Rural Residential zoning district, and allow the option of developing a Commercial Recreation use by Special Permit from the Planning Board. If the current Commercial Recreation proposal never happens, the underlying Rural Residential zoning remains.

The Board also recommends that the following issues/concerns be addressed in the Zoning Amendment:

Area affected:

The Overlay district shall consist of the following parcels:

Map S32-5-0, S32-6-A, S32-7-0, S32-10-0, S32-13-0, S32-14-A.

Definition

Notwithstanding the definition of "Commercial Recreation" in Section 181.10 of the Zoning Ordinance, which allows a wide variety of Commercial Recreation uses, the allowed uses in the Westminster Hill Road Commercial Recreation Overlay District shall be limited to facilities for soccer, lacrosse, and other similar youth or adult sports.



Reports of  
Committees

Planning Board  
(cont)

Planning Board recommendation - Petition #106-2016 & 107-2016

Page 2

Accessory uses such as dining for users of the commercial recreation facility, parking, gift shop, pro shop, medical offices, day care, solar or wind power generation for the primary use of the Commercial Recreation facility, and any other use that is compatible with a planned recreational development shall also be allowed.

Special Permit requirement

All development under the Westminster Hill Road Commercial Recreation Overlay District requires a Special Permit for the Planning Board in accordance with Section 181.93.

Performance Standards

- The number of outdoor playing fields shall not exceed 10.
- Only one primary building shall be allowed. Accessory buildings ancillary to the principal use shall also be allowed.
- The Applicant must demonstrate to the Planning Board's satisfaction that there will be adequate buffering and screening for adjacent areas to mitigate issues such as, but not limited to: spillover lighting and sound from the outdoor recreation facility.
- Access to the proposed Commercial Recreation site to be solely from Southwest via Industrial Road or an adequate alternative. Access to site shall not be allowed from the Northeast via Westminster Hill Road, except for emergency access only.
- The applicant shall assess the water distribution system in the area, and as directed by the Fitchburg Water Dept., provide improvements to public water supply system to insure adequate water pressure for fire and domestic flows.
- The applicant shall submit a Traffic Impact Study and cover the City's cost of a third-party Peer Review of such a study. Applicant may be required to make off-site improvements as may be reasonably recommended in the traffic study, by the third party peer reviewer, or otherwise determined warranted by the Planning Board.
- A parking plan that addresses the Commercial Recreation Planned Development parking needs and overflow parking shall be submitted for the Planning Board's review & approval. No parking associated with Commercial Recreation Planned Development uses shall be permitted on Westminster Hill Road, Victoria Lane, or Industrial Road. (The City may want to issue parking permits to residents.)
- The applicant may be required to make other offsite improvements to mitigate the impact of development, such as, but not limited to: Improvements to Industrial Road and Westminster Hill Rd., evaluation and recommended improvements to the Montachusett pump station at the foot of Industrial Road, and other utilities, and providing an adequate turnaround at easterly terminus of Westminster Hill Rd.
- The applicant may be required to assess the impact on private wells private wells (hydrological study) in the surrounding area, especially with planned irrigation use, and demonstrate use of best management practices to prevent groundwater contamination and well yield issues to neighboring properties. (Pre and post development well surveys, pump testing, monitoring wells etc. may be required).
- Subject to satisfactory review by Police, Traffic Division, and Fire Dept. and other City Departments as needed.
- The Planning Board shall determine whether the detailed site plan submitted with the Special Permit application conforms to the Concept Plan accompanying the rezoning petition, and what constitutes a "major" or "minor" change in the Concept Plan. A major revision will require new notice and hearing.



Planning Board recommendation - Petition #106-2016 & 107-2016

Page 3

- Minor revisions to the concept plan are allowed. A reduction in either the number of playing fields, or the size of building, will not constitute a major change.
- All regulations of the underlying district shall remain in full force and effect until and unless the exercise of any right or commencement of any use or construction authorized by the Special Permit granted pursuant to this section.

(2) The Board voted 5-0 to recommend against Petition #107-2016.

This amendment could potentially allow, by Special Permit, a Commercial Recreation development to be proposed in many more Rural Residential-zoned areas of Fitchburg than the seven parcels affected by the previous petition. The Board's opinion is that the proposed zoning change in Petition #107-2016 best supports the purposes of the Zoning Ordinance while also allowing a Recreational Use that will benefit the City.

Finally, the Board recommends that abutters to the seven West Fitchburg parcels proposed to be rezoned, in addition to the abutting property owners on Industrial Road, Arbor Way, and Stevens Road, who would be impacted by the outdoor recreation proposal, be notified of the July 5<sup>th</sup> City Council public hearing on the proposed rezoning. The City Clerk's office has been informed of this.

Report read and accepted.  
11 members present. Board consists of 11 members.



Hearing  
#106-16

**HEARINGS**

106-2016. Steve Marsden, President-S.M. Development, Inc. to amend the Fitchburg Zoning Ordinance by adopting a by-law which would insert a new section 181.8431 Approved Plan Development Districts (Westminster Hill Road Commercial Recreational District.)

TO THE HONORABLE CITY COUNCIL OF THE CITY OF FITCHBURG

16 MAY 12 10 17

Ladies and Gentlemen:

The undersigned Petition your Honorable Body to

Amend the Fitchburg Zoning Ordinance by adopting a by-law which would insert a new section;

**181.8431 Approved Plan Development Districts**

There shall be a district on the Zoning Map of the City entitled the Westminster Hill Road Commercial Recreational District.

- a. The district shall include the following lots located in West Fitchburg identified by the following parcel identification numbers S32-10-0, S32-13-0, S32-14-A, S32-17-0, S32-5-0, S32-6-A, and S32-7-0 also identified on the attached plan marked as Exhibit "A".
- b. Commercial recreation shall be a permitted use in the Westminster Hill Road Commercial Recreational District. Certain accessory uses in the Westminster Hill Road Commercial Recreational District shall include dining, parking, employee facility, gift shop or pro shop, medical offices, day care, power generation; including wind, solar, and any other use that would be compatible with each other use as part of a totally planned development.
- c. And any additional provisions this Honorable body deems just and necessary.

To further amend the Fitchburg Zoning Map to make the same consistent use with the forgoing description of the Westminster Hill Road Commercial Recreational District.

For reason says, the City is permitted to establish a Planned Development District (PDD) pursuant to c.181 § 84 in order to promote various types of land use which can be combined in a compatible relationship with each other as part of a totally planned development. More specifically, a PDD could be established to permit a sports complex with several ancillary uses.

The PDD is more clearly describe in the attached plan by Marsden Engineering Inc. marked as Exhibit "B" and is more completely described in the attached Memorandum marked as Exhibit "C".

Respectfully submitted,

  
Steve Marsden

President of S.M. Development, Inc.



**Projections of increased tax revenue, employment (construction and permanent),**

Because of our 9 Million dollar project, the city will see an increase in property taxes with the improvement of the site. We project \$60,000 to \$100,000 per year.

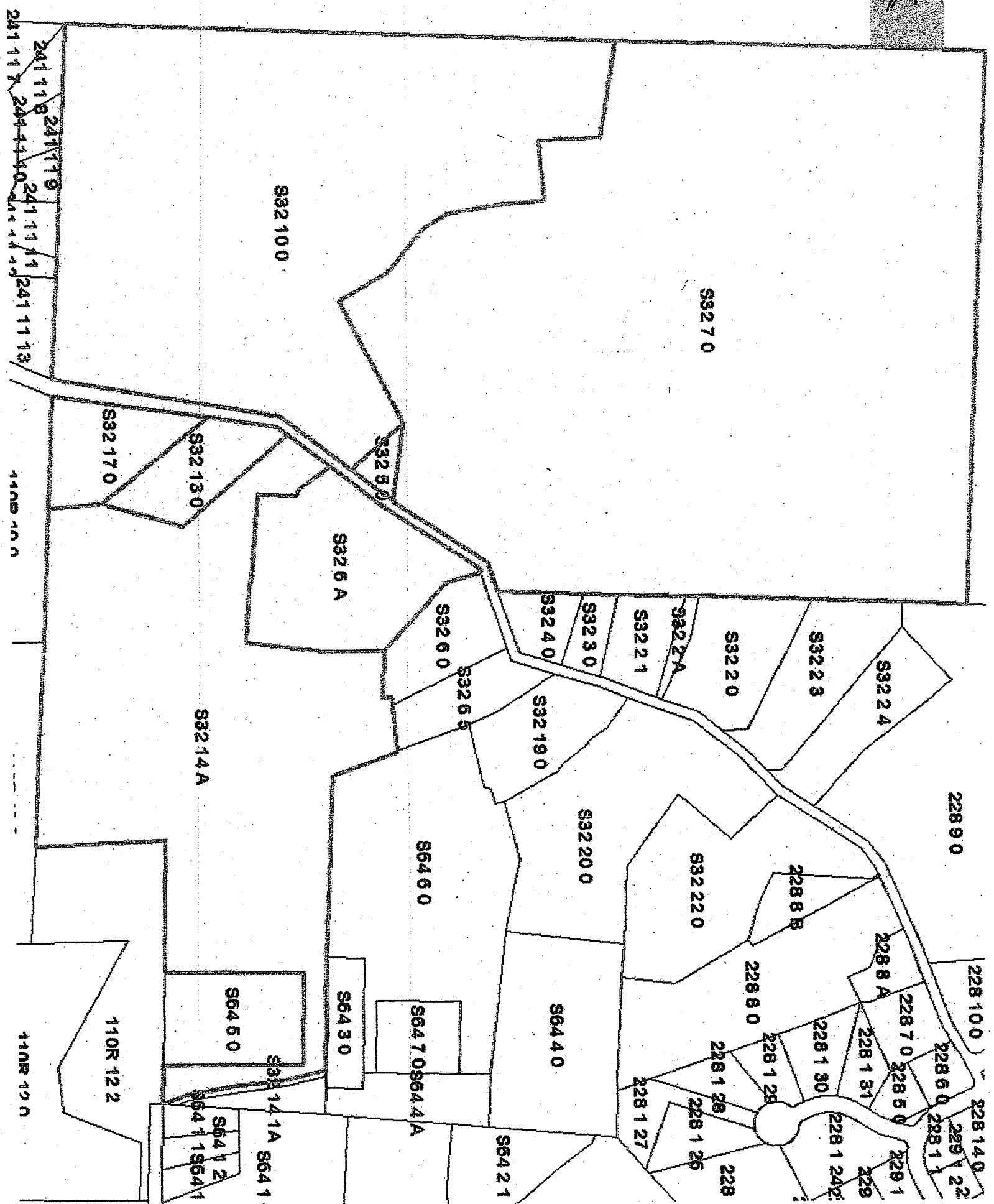
We will employee 100 to 150 construction workers, and 40 to 50 full and part time workers once open.

Provide residents, both youth and adults, with opportunities to participate in sports and other wellness activities.

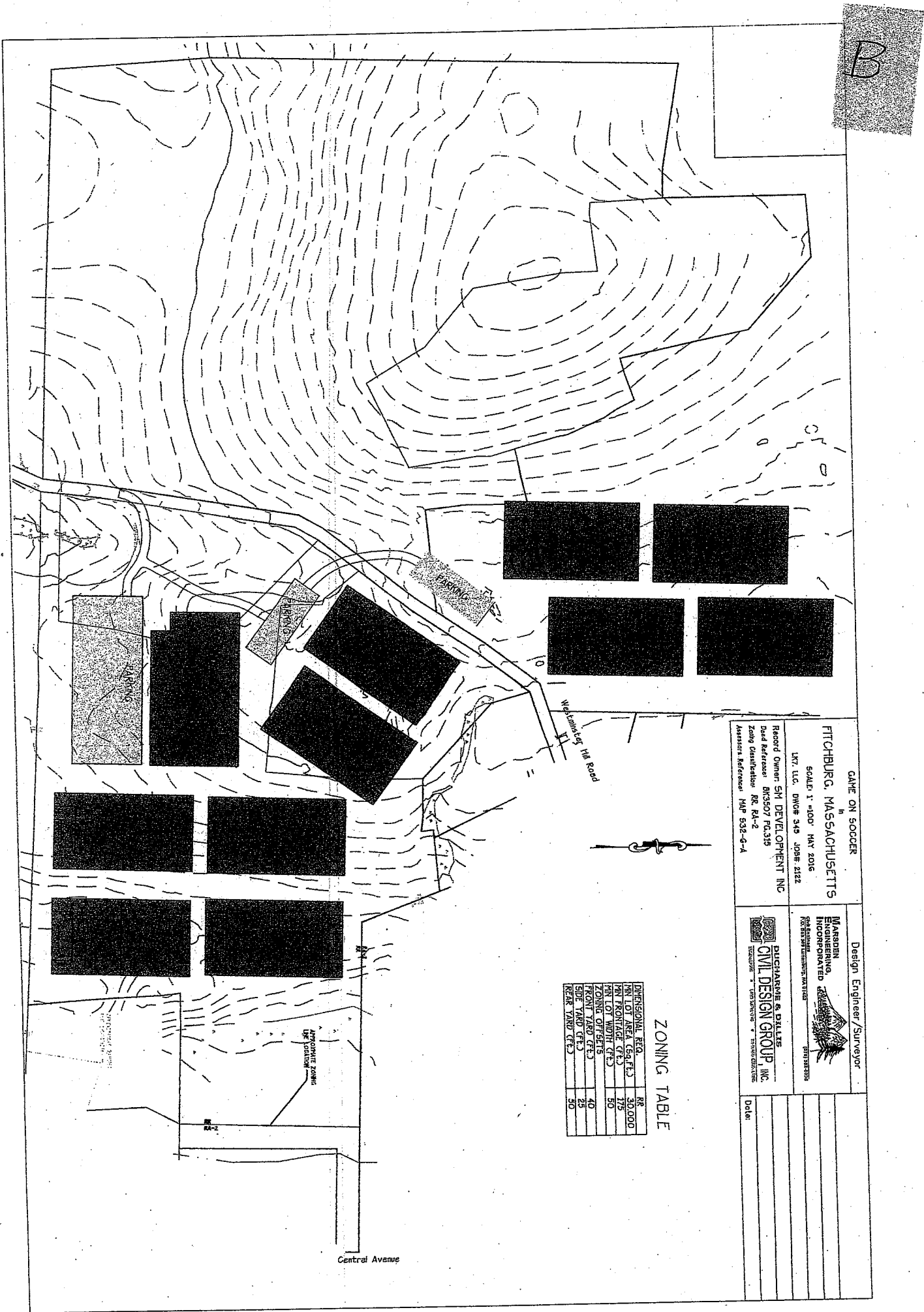
Provide optional space for community and charity events

Provide winter activities for our seniors









ZONING TABLE

|                       |        |
|-----------------------|--------|
| DIMENSIONAL REQ.      | RE     |
| MIN LOT AREA (SQ.FT.) | 30,000 |
| MIN FRONTAGE (FEET)   | 75     |
| MIN LOT WIDTH (FEET)  | 50     |
| MIN LOT DEPTH (FEET)  | 40     |
| MIN LOT AREA (SQ.FT.) | 25     |
| MIN LOT DEPTH (FEET)  | 25     |
| MIN LOT AREA (SQ.FT.) | 50     |

|   |   |
|---|---|
| GAME ON SOCCER<br>FITCHBURG, MASSACHUSETTS<br>SCALE: 1" = 100' MAY 2016<br>LIT. LUC. DRUG 348 JONH. 2122<br>Record Owner SM DEVELOPMENT INC<br>Zoning Classification: RE RA-2<br>Mansben Reference: HIF 538-6-4 | Design Engineer/Surveyor<br>MANSBEN<br>ENGINEERING & SURVEYING<br>FOR EXISTING AND FUTURE<br>PROJECTS<br>DICHARNE & DALLIS<br>CIVIL DESIGN GROUP, INC.<br>DESIGNER * SURVEYOR * ENGINEER<br>Date: |
|---|---|



Hearing  
#106-16 (cont)

The world of youth sports is changing. Gone are the days when young people predominantly organized themselves into pickup games and backyard contests. Youth sports these days are typified by independent organizations, competitive regional leagues, travel teams and tournament play. Nearly 70 percent of children (age 6-17) in the U.S. are playing at least one team sport. The explosion of travel teams in youth team sports has been accompanied by a proliferation of youth tournaments, often involving multiple games or matches over 2-3 days and large numbers of teams from a wide geographic area. On a national level, these tournaments have been found to have significant economic impact.

Cities and Towns that have caught on to the economic boom that youth sports can provide for local communities have recognized the importance of creating the infrastructure, facilities and community support in order to be competitive with other towns trying to create their own youth leagues and tournaments. These communities typically invest in both outdoor fields as well as an indoor facility that can extend the sports tourism business through the winter months. These facilities are important for the growth and sustainability of youth sports leagues and tournaments. They also serve as destinations for annual camps and clinics.

Our research found that the tournaments and indoor winter leagues generate a considerable amount of direct and indirect economic activity for the region. These are some of the specific economic activities:

1. The indoor winter season (November to April) will bring in 10,000 youth athletes and their families per week to Fitchburg.
2. The tournaments combine will bring 15,900 people - youth athletes and their families - to the Fitchburg City area
3. These visitors are more economically attractive than typical tourists with median average income nearly twice that of a typical tourist.
4. Overall, winter league participants will contribute \$2.1 million in direct spending (average of \$8 dollars per person per week).
5. Overall, tournaments will contribute \$3.4 million in direct spending within the region.
6. Tournament participants take up more than 200 hotel rooms per night and frequent nearly all local restaurants and dozens of retail stores
7. In addition, tournaments serve as gateway experiences for many first time visitors, inspiring large numbers to make plans for subsequent trips and vacations to the region
8. By supporting extensive playing fields and subsidizing Fitchburg Area Youth Soccer programming, the tournaments expand the number of recreational opportunities available to area youth



Hearing opened.

The petitioner, Steve Marsden, along with Greg Roy, Engineer from Ducharme & Dillis, were present. Mr. Roy explained that the proposed plan includes ten outdoor soccer fields - four with artificial turf and six with natural grass. They will all be lighted. There is also a facility with indoor fields to include a restaurant, medical offices, and a pro-shop). There will be 500-550 parking spaces and city water and sewer connections. In response to inquiries from Councillors, Mr. Roy stated the following:

Q: Concerns about traffic impacting Westminster Hill Road and beyond.

A: The final traffic design has not been completed. A detailed traffic study will be conducted.

Q: Concerns about noise impacting neighboring homes

A: They will incorporate grading, berms, landscaping and preserve trees to buffer sound. The hard design details have not been completed.

Q: Concerns about construction blasting affecting private wells.

A: They are amenable to test the private wells in the vicinity of the project. The Planning Board may opt to condition the Special Permit to include a solution to any affects so determined.

Q: Why was this area of Fitchburg chosen for this project?

A: Demographics of the population, accessibility to Route 2, near Great Wolf Lodge.

Councillor DiNatale read the report and recommendations from the Planning Board which centered on approving the petition as an Overlay Zoning District which would allow the option of developing a Commercial Recreation use by Special Permit from the Planning Board. This recommendation was incorporated in to the remainder of the discussion.

Speaking in favor:

1. Michael Hurley, Planning Board member. Requesting that the City Council consider the Planning Board recommendations before they vote.
2. Amanda Koeck, 214 Sanborn St. States that soccer fields will bring less traffic in to the area than a housing development.

Speaking in opposition:

1. Ginny Guertin, 165 Central Ave. States the neighborhood received no notices on the matter; the project has not been well-researched; the project will negatively affect wildlife.
2. Ian Catlow, 85 Victoria Lane. States the project would create a significant change to the character of the neighborhood with very little dialogue. He submitted written comments for the record (see attached email from Councillor Joel Kaddy containing these comments).



Hearing  
#106-16 (cont)

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**Farrell, Anna**

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**From:** Joel Kaddy <joelkaddy@gmail.com>  
**Sent:** Tuesday, July 05, 2016 8:36 PM  
**To:** Farrell, Anna  
**Subject:** Fwd: Proposed Zoning Change

----- Forwarded message -----

**From:** Ian Catlow <ibcatlow@gmail.com>  
**Date:** Tue, Jul 5, 2016 at 10:58 AM  
**Subject:** Proposed Zoning Change  
**To:** [mayor@fitchburgma.gov](mailto:mayor@fitchburgma.gov)  
**Cc:** [beanandassociates@gmail.com](mailto:beanandassociates@gmail.com), [joelkaddy@gmail.com](mailto:joelkaddy@gmail.com), [marcusdinatale@gmail.com](mailto:marcusdinatale@gmail.com),  
[fitchburgsdaveclark@gmail.com](mailto:fitchburgsdaveclark@gmail.com), [dean@deantran.com](mailto:dean@deantran.com), [todonnelly@yahoo.com](mailto:todonnelly@yahoo.com)

Mayor DiNitale:

Just over a year ago I remember you knocking on my door around dinner time to ask for a favor in the coming election. After listening to a few of your ideas and reading up on your positions I decided to support you in the mayoral election because I thought it was the best thing for Fitchburg. Now, I find myself in the position of asking you for a favor that relates to the proposed zoning change on Westminster Hill Rd.

As a professional engineer with nearly 20 years of experience in development and water resources I believe that this is a very poor location for the proposed recreational uses. There are a number of issues that I've detailed later in this message but in general they relate to site topography, existing access, traffic, noise pollution, light pollution and water quality. After learning what I could about this project from the limited materials that have been shared publicly to date, it seems that this project represents poor planning on the part of the City and the Developer. Site topography is likely to drive development costs substantially higher than would be experienced on a more level site, and construction of this facility will substantially alter local views, drainage patterns, and possibly even water availability. Additionally, site access through an industrial park and a residential neighborhood is not the type of project approach that invites athletic tourism or creates a safe environment for local residents.

Proposed changes to the zoning regulations fail to adequately address hours of operation, light pollution, noise levels, project setbacks, and minimum slope requirements. Each of these considerations will impact local residents substantially.

With all of the blighted and abandoned properties in Fitchburg, as well as the locations with good highway access or access to shopping amenities, there are many alternate locations for this project that would be more favorable. *The purpose of zoning regulations is to foster planned community growth, where complimentary land uses can be located adjacent to each other and local land conditions are well suited to the allowable uses. Locating a high volume sports complex away from the highway in a residential neighborhood with steep slopes does not meet any of these criteria.* Additionally, our City should not walk away from prior master planning efforts that solicited substantial public input to develop the current zoning for the short term gains of a single developer, wishing to propose a non-conforming use in a bad location.



Regards,

Ian Catlow, P.E.

85 Victoria Ln Fitchburg, MA

Additional detail regarding project impacts follows:

**Traffic:**

- Volume – 120 cars + every hour from 8:00 till Midnight
- Safety – Existing unsafe intersections at Victoria/Westminster Hill, Westminster Rd/Industrial Rd, Westminster Rd/Princeton Rd, and Rt 2A/Depot Rd (Westminster). All have poor line of site and increased volume will lead to more accidents without signalization and significant upgrades.

**Water Quality:**

- Under a 2012 EPA Consent Decree Fitchburg was fined \$250,000 and required to improve wastewater and stormwater systems to reduce Nashua River nitrogen and phosphorous levels.
- The \$23,000,000 phosphorous removal project mandated by the Consent Decree will only be required if observed water quality mandates it.
- The proposed project will add in excess of 2,700 lbs of nitrogen and 540 lbs of phosphorous to the Nashua River headwaters. This type of impact would be a significant contributing factor towards EPA requiring the phosphorous upgrade at the City's WWTF.
- The average rate payer impact of this upgrade is roughly \$100/year in a City that already has some of the highest wastewater rates in the state.
- All Victoria Ln residents rely on well water for daily use and added nutrient and chemical loads put these water supplies at risk.

**Water Quantity:**

- The proposed project cannot be supported by private wells due to local geology and project demands for over 250,000 gallons per day.
- There is no shallow aquifer in this area for the project to tap to get this water so low production (1 to 5 gpm) bedrock wells or a City water connection will be needed.
  - Bedrock wells at this scale could rob local residents of their potable water supplies.
  - City water lacks the pressure and available flow rate to serve the project without significant capital upgrades. Residents should not pay for these upgrades.
- A 2007 brush fire near Victoria Ln demonstrated the lack of water pressure and availability when fire crews struggled to extinguish a small fire that had started behind several homes on the street.

**Construction Impacts:**

- The proposed field layout will require excavations into the side of Parker Hill in excess of 50 feet to create flat playing fields.
  - Rock outcrops in the area suggest this will require significant blasting to complete the work which could impact resident's foundations/homes.



Hearing  
#106-16 (cont)

- Truck traffic to move fill material will be an extensive operation, requiring many trucks excavators, and other pieces of heavy equipment. The noise impact from these vehicles will be substantial.
  - At a minimum, the project will require at least 7,500 cubic yards of topsoil import. This will result in roughly 450 truck trips through the neighborhood for topsoil alone.
- Construction vehicle traffic will impose excessive loads on narrow portions of Westminster Hill Rd, resulting in premature failure of the paved surface.
- Truck traffic will impact mail delivery and a neighborhood bus stop located at Victoria Ln and Westminster Hill Rd.

**Aesthetic Concerns:**

- Residents on Victoria Ln currently experience noise and light pollution impacts from Monty Tech on game nights during the fall. However, this is limited to 1-2 nights per week during the fall sports season.
- The proposed 16 hour days for the project will result in participant/spectator noise from 8:00 AM till Midnight.
- Lights required to illuminate the field will be on poles over 50 feet tall which will be super-elevated in relation to adjacent homes because of the local topography. This will result in significant light pollution for local residents until very late in the evening.
- Visual screening of the project cannot be accomplished simply by leaving a 100 foot vegetated buffer around the project. Deciduous trees in this area will lose their leaves seasonally, leaving the facility highly visible from October through April.

**False Community Benefits:**

- The 35 to 60 full and part time jobs promised by this project are likely low paying, low skilled, positions, and not something that will support upward mobility in the community.
- Assuming that this facility functions like the Mass Youth Soccer facility in Lancaster, the promise of increased local business activity seems hollow. Folks travel to the Lancaster complex from all over the state, but their spending seems limited to pre-game water purchases at Target and post-game ice cream at Kimball Farms. Suggesting this project will increase downtown traffic is simply false.
- When balancing the economic benefits in terms of increased taxes from this project against the costs of added police details for traffic control, numerous intersection upgrades, required roadway improvements, water system upgrades, and other municipal service costs it seems unlikely that the benefit to cost ratio for the project would be favorable.



7/5/16

July 1, 2016

Counsel Members,

First of all, let's be perfectly clear on what this project is and is not. This project IS NOT a solution to Fitchburg's economic woes. Secondly, it is not going to make Fitchburg a better place to live. This project is not for the betterment of Fitchburg. Its purpose is to provide a perpetual cash generator for Steve Marsden and company. It is not a park for **all to enjoy**. It is not a playground for the entire city to benefit from. It is a "**pay to play**" commercial enterprise proposed for a residential neighborhood. This is not acceptable for the residents of the West Fitchburg neighborhoods.

Zoning laws exist for a reason; the protection of property values. Without an overwhelming preponderance of evidence of city wide benefits, the city should not sacrifice my, and all my neighbors, property values. This project is not going to bring "people" to Fitchburg. It will bring excessive traffic to Waitts Corner, an already problematic area. It will bring minivans of kids and coolers full of Gatorade to West Fitchburg to make noise for a period of time and then leave. They are not coming to shop, they are not taking their sweaty kids out to dinner afterwards. They are going home without even seeing Fitchburg, without ever spending a dime.

Which brings me to my final point. Without clear, consistent and fair zoning regulations and enforcement, this city has little or no hope for future development. Without the city's defense of zoning laws, no one will want to invest in Fitchburg. Not residents and not businesses.

Thank you for your time and consideration. Please contact me at any time. This is important to me as this has been **my home** for 31 years.

Jonathan Handler  
1296 Westminster Hill Road  
Fitchburg, MA 01420  
Cell 978-502-4566



Hearing  
#106-16 (cont)

3. Suzanne Wentworth, 1215 Westminster Hill Road. States the project needs more research, it is in the wrong location, the City may gain but at what loss.
4. Richard Anderson, 727 Westminster St. States there are wetlands and sink holes in the area and it is not conducive to development.
5. Derek Burrows, business owner on Industrial Road. States the increased traffic through the industrial park is a safety concern.
6. Beth Romano, 161 Victoria Lane. Opposed to placement in a residential area.
7. Caren Savone, 177 Victoria Lane. States it is a bad location for the project.
8. Rachel Catlow, 85 Victoria Lane. States they can hear noise now from Monty Tech sports fields. This project will create much more noise, lights and traffic.
9. Anne Kigoro, 20 Victoria Lane. States concerned about increased traffic.
10. Ashok Hingorany, 34 Williams Rd. Proposes a fence to prevent parking in surrounding neighborhoods.
11. Joseph Fournier, 1264 Westminster Hill Rd. States there are wetlands in the proposed area of development.
12. Eleanora Lecei, 455 Sheldon Rd. States it is a bad location for the project. It is a rural area and there are wetlands.
13. Attorney Andrew Couture on behalf of Jonathan Handler, 1296 Westminster Hill Rd. States project will have negative impact on traffic in the Waites Corner area. States families will not be shopping or dining after a soccer game. He submitted written comments from Mr. Handler for the record (see attached).
14. Roger Diederich, 1279 Westminster Hill Rd. Asked if the area will be policed or fenced in. States it is a bad location.

Hearing closed. Councillors deliberated on the matter making comments including as follows:

DiNatale: Moving in the right direction. Property tax on the parcel will increase from \$12,000 per year to \$250,000 due to increase in land valuation. Fitchburg does not need more housing, it needs more commercial development. City needs to improve opportunities for business investment and this area is already primed for development.

Tran: Concerned that definitive answers to various questions have not been provided.

Bisol: This is just the beginning of the process. Developers will address concerns further in to the process.

Joseph: Concerned with taking away residential property rights.

Donnelly: The change will only give the opportunity for application for the project. The process would be allowed to progress.

Kaddy: Representing the concerns of Ward 3 residents he cannot vote in favor.

Upon conclusion of discussion, a motion made by Councillor Bisol to grant the petition passed by vote of 9 in favor and 2 opposed (Kaddy, Tran).



107-2016. Steve Marsden, President-S.M. Development, Inc. to amend the Fitchburg Zoning Ordinance by amending 181.313 Table of Use Regulation by striking the letter "N" in line "C.19" and inserting in its place "PB" and to amend 181.321 by adding 181.3217 (Westminster Hill Road Commercial Recreational Planned Development District)

TO THE HONORABLE CITY COUNCIL OF THE CITY OF FITCHBURG

FITCHBURG CITY CLERK  
16 MAY 12 10 17

Ladies and Gentlemen:

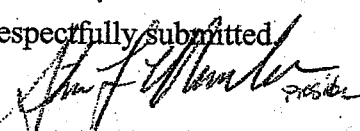
The undersigned Petition your Honorable Body to

Amend the Fitchburg Zoning Ordinance by amending 181.313 Table of Use Regulation by striking the letter "N" in line "C. 19." and inserting in its place "PB" and to amend 181.321 by adding "181.3217. Upon approval by City Council of a Special permit for a commercial recreational use the City Council may, but is not required, to permit accessory uses including but not limited dining, parking, employee facility, gift shop or pro shop, medical offices, day care, power generation; including wind, solar, and any other use that would be compatible with the commercial recreational use."

The amendment would allow petitioners to seek a special permit from the Planning Board to use property in the rural areas of the city for commercial recreational uses and accessory uses which one might expect to be associated with commercial recreation. This type of use is more clearly describe in the attached plan by Marsden Engineering Inc. marked as Exhibit "A" and is more completely described in the attached Memorandum marked as Exhibit "B" and is constant with the open spaces in the rule residential districts.

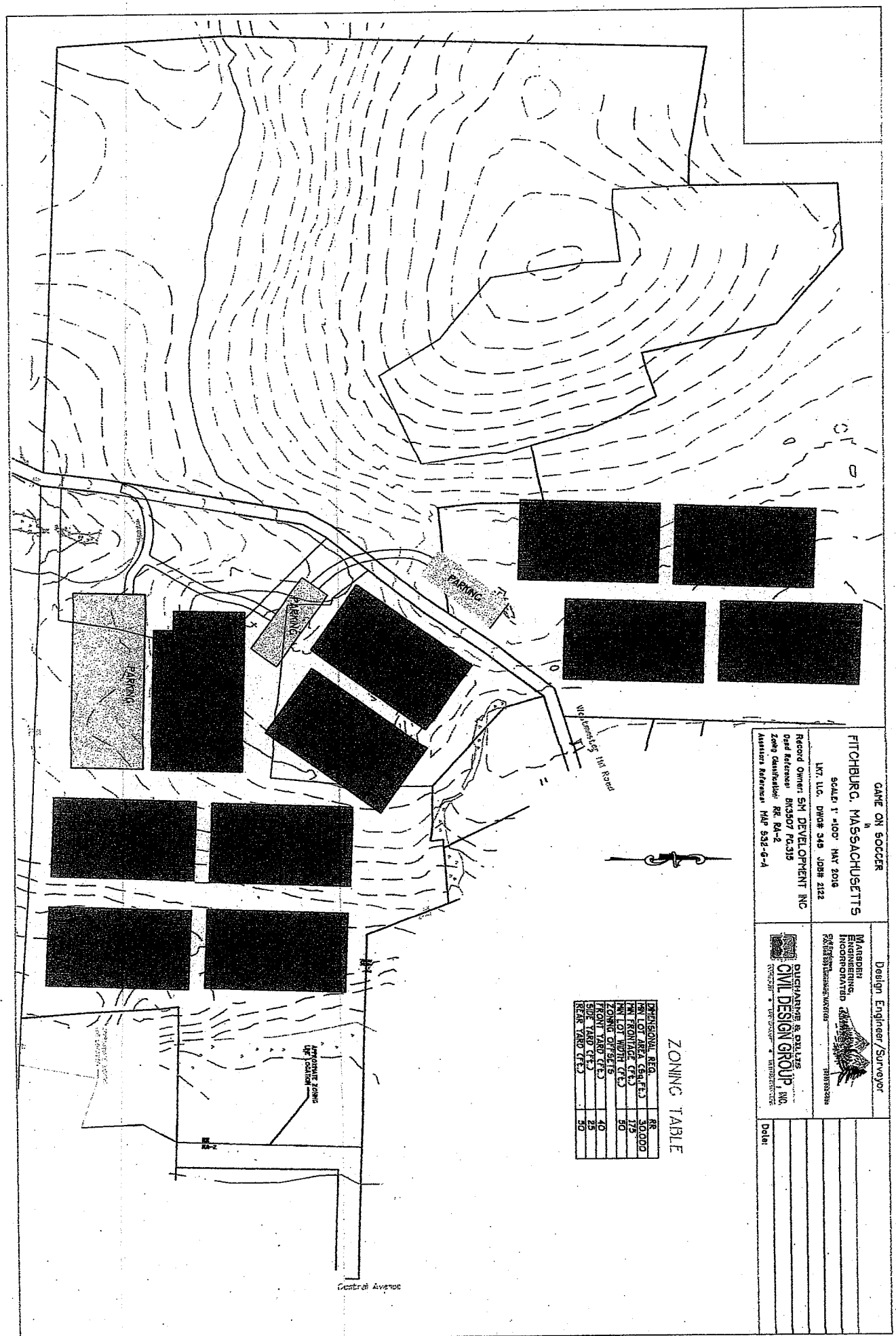
This petition is submitted as an alternative proposal for the petition seeking a Westminster Hill Road Commercial Recreational Planned Development District

Respectfully submitted,

  
Steve Marsden  
President of S.M. Development, Inc.



Hearing  
#107-16 (cont)



Hearing opened.  
The petitioner, Steve Marsden, was present. The petitioner requested that the petition be given leave to withdraw. No one spoke in favor of the petition.  
Speaking in opposition:  
1. Ian Gatlow, 85 Victoria Lane. Opposed for same reasons as stated in public hearing for petition 106-2016.  
  
Hearing closed.  
Petition given leave to withdraw by unanimous vote. 11 members present. Board consists of 11 members.



**ORDERS**

Orders

193-2016. ORDERED THAT: The City of Fitchburg approves the expenditure of funds from the Massachusetts Department of Public Health for the FY17 First Responder Narcan Grant in the approximate amount of \$3,825 for the purposes of said grant.

194-2016. ORDERED THAT: There be and hereby is appropriated the sum of FIFTY-EIGHT THOUSAND FOUR HUNDRED EIGHTY DOLLARS (\$58,480) to LIBRARY CAPITAL-BUILDING RENOVATION and charged against AVAILABLE FUNDS (FY2016).

Orders adopted under suspension of the rules by unanimous vote. 11 members present. Board consists of 11 members. Orders signed by the Mayor July 8, 2016.

**PETITIONS**

Petitions

The following Petition was referred to the Finance Committee:

195-2016. City Solicitor Vincent Pusateri, II to:

1. Approve the fees schedule in the attached retainer agreement;
2. Amend the Code of the City of Fitchburg by inserting Section 3-59 - The City Solicitor and Assistant City Solicitor shall be permitted to require third parties to pay the City of Fitchburg's legal fees for services actually performed at the rate of \$250.00 per hour for attorneys and \$125.00 per hour for paralegals. When doing so a retainer or fee agreement shall be forwarded to said third party along with a retainer request.

**TO THE HONORABLE CITY COUNCIL OF THE CITY OF FITCHBURG**

Ladies and Gentlemen:

The undersigned Petition your Honorable Body to

To approve the fees schedule provided for in the attached retainer agreement.

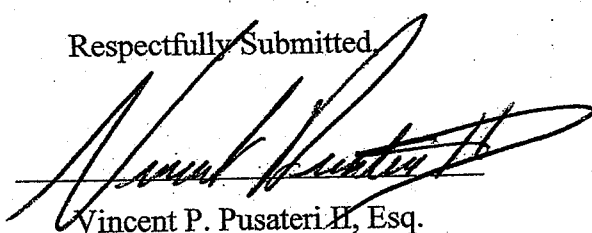
For reason says the client retainer agreement provides clearly that the firm is already employed by the City of Fitchburg, that the Guarantor is guaranteeing payments in the amounts set forth in agreement in which are as follows \$250.00 for attorneys, \$125.00 for paralegals, and reimbursement of all out of pocket costs. The firm makes a reservation of right to increase its fees pursuant to the fee agreement.

For further reasons says it is customary and ordinary in the business in the community to allocate attorney's fees between contracting parties particularly in light of the fact where one party would engage in profitable enterprise and the other party is incurring fees and costs above that which it could otherwise afford.

Wherefore the undersigned respectfully request this Honorable Body amend the City Code by inserting;

3-59 The City Solicitor and Assistant City Solicitor shall be permitted to require third parties to pay the City of Fitchburg's legal fees for services actually performed at the rate of \$250.00 per hour for attorneys and \$125.00 per hour for paralegals. When doing so a retainer or fee agreement shall be forwarded to said third party along with a retainer request.

Respectfully Submitted,



Vincent P. Pusateri II, Esq.



Petitions (cont)

**PUSATERI & WILSON, P.C.**  
**128 Prichard Street**  
**Fitchburg, MA 01420**

**CLIENT RETAINER AGREEMENT**

I, City of Fitchburg, the "Client", employs the law firm of Pusateri & Wilson, P.C., 128 Prichard Street, Fitchburg, Massachusetts 01420, the "Firm" and \_\_\_\_\_ (Guarantor) is paying for the same for the purpose of negotiating, executing and monitoring the performance of an agreement.

1. The Firm hereby acknowledges receipt of \$\_\_\_\_\_.00 as a retainer in this matter, and in consideration of the payment thereof, agrees to provide legal services in connection therewith.

2. It is hereby agreed by and between the Client, Guarantor and the Firm that the retainer paid herewith by the Guarantor shall be applied against legal services actually performed by the Firm for the Client, which services shall be charged at the hourly rate of Two Hundred Fifty and 00/100 (\$250.00) Dollars for services provided by an attorney, and One Hundred Twenty-Five (\$125.00) Dollars for services provided by a paralegal. In the event that legal charges exceed the retainer amount before completion of your matter, an additional retainer will be required. The amount of the additional retainer will depend upon the status of the matter at the time. The Firm reserves the right to change its hourly rate upon thirty (30) days notice to the Client, Guarantor and Guarantor.

Included in the above retainer amount is an amount to cover initial out-of-pocket costs incurred by the Firm on behalf of the Client. The Guarantor shall pay in advance for all out-of-pocket costs incurred in connection with this matter (e.g. filing fees, witness fees, travel, sheriffs'



fees, expenses of depositions, investigative expenses and other incidental expenses) and the Firm agrees to obtain the Guarantor's prior approval before incurring any single disbursement in excess of Four Hundred and 00/100 (\$400.00) Dollars. The Guarantor agrees to maintain a credit balance with the Firm to cover such expenses.

3. Monthly billing may be submitted to the Client and Guarantor.

4. In the event of any balance owed to the Firm, a one (1%) percent finance charge will be applied to any outstanding balance for each thirty (30) day period during which such balance remains outstanding. This finance charge will be compounded every thirty (30) days.

5. In the event that upon completion of the within matter, the total of the legal services performed and costs incurred by the Firm shall be less than the retainer and credit amounts paid by the Guarantor, the balance(s) shall be refunded to the Guarantor by the Firm.

6. It is understood and agreed that the hourly time charge for legal services includes, but is not limited to, the following: court appearances, conference, telephone calls, correspondence, legal research, depositions, drafting documents, reading and reviewing of file materials and preparation for trial. Telephone calls and correspondence shall be billed at a minimum rate of one-tenth (1/10) of one hour.

7. The Firm shall have the right to withdraw from the matter if the Guarantor has not made the payments required by this Agreement, if the Client or Guarantor has misrepresented or failed to disclose material facts to the Firm or if the Client or Guarantor fails to follow the Firm's advice or cooperate with the Firm in the Firm's representation of the Client or Guarantor. In any of these events, the Client and Guarantor shall arrange, at the Firm's request, for a substitution of Attorney or Attorneys. Copies of any material contained in the Client's file other than those



Petitions (cont)

routinely submitted to the court, shall be paid for in advance by the Guarantor before said copies are delivered to the Client.

8. The Client and Guarantor acknowledges that the Firm has made no guarantees regarding the disposition of any phase of this matter, and all expressions relative to it are only the opinion of the Firm.

9. The members of this firm are not Certified Public Accountants and as such, are not providing any legal advice regarding taxation. You are encouraged to review any and all actions and/or documents by this firm with an accountant of your choice prior to the execution of your documents.

10. There is to be no change or waiver of any of the provisions of this Agreement unless the change is in writing and signed by both a member of the Firm, the Client and the Guarantor.

11. This Contract shall be interpreted as a Massachusetts contract and shall be enforced in the Commonwealth of Massachusetts.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Guarantor

\_\_\_\_\_  
PUSATERI & WILSON, P.C.

\_\_\_\_\_  
Client  
Mayor Stephen L. DiNatale



The following Petitions were referred to the Council as a Whole Committee:

196-2016. Knute Alfredson, M.D. to reconsider the one-lane Main Street vote of Tuesday May 17, 2016.

**TO THE HONORABLE CITY COUNCIL OF THE CITY OF FITCHBURG**

Ladies and Gentlemen:

The undersigned Petition your Honorable Body to

reconsider the One-Lane Main Street vote of Tuesday, May 17, 2016 for the following reasons:

One-Lane Main Street has been a major issue for nearly 2 years and is clearly of great concern to city residents. However the notice for the City Council meeting of May 17, 2016 says

The agenda will consist of the following:  
Discussion regarding one-lane Main Street.

The agenda does not say that there will be a vote on the One-Lane Main Street project. A vote should not have taken place on this controversial project unless it was on the agenda. Moreover, whenever a vote is placed on the City Council agenda for important projects such as One-Lane Main Street, the agenda should be posted at numerous places including City Hall, Fitchburg Library and the local newspaper.

One-Lane Main Street will impact many residents, businesses, and property owners in adverse ways by causing traffic jams and diversion of traffic. It will eliminate parking along the south side of Main Street between Newton Place and Wood Place. The loss of these parking places will affect patrons of the Fitchburg Library and Fay Club and the workers at Verizon who park their trucks on Main Street.

Most importantly, it will negatively impact Fire Engine, Ambulance and Police services and the daily commute of ordinary motorists.

*Knute Alfredson, M.D.*

*June 28, 2016*

16 JUN 28 08 37  
FITCHBURG CITY CLERK



Petitions (cont)

197-2016. Mr. Kenneth Posco, to reconsider the vote on May 17, 2016 regarding one-lane Main Street.

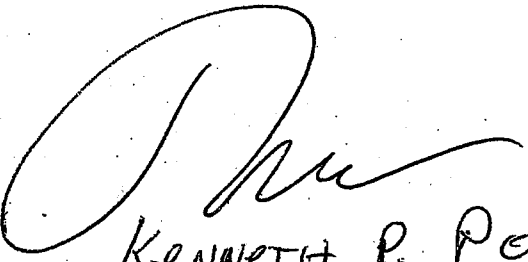
TO THE HONORABLE CITY COUNCIL OF THE CITY OF FITCHBURG

Ladies and Gentlemen:

The undersigned Petition your Honorable Body to

Reconsider the vote on May 17, 2016 regarding one lane Main Street, to allow those who will be negatively impacted by the change, including, but not limited to, Retail Stores, Restaurants, Professional services, Governmental agencies, Banks, Insurance agencies, employees and patrons, visitors to the City, Citizens of Fitchburg, and any and all others that may be directly or indirectly affected by this change.

This request allows all of the aforementioned to be given an opportunity to voice their opinions and concerns regarding a one lane Main Street.

  
KENNETH P. POSCO

FITCHBURG CITY CLERK  
16 JUN 28 15 25



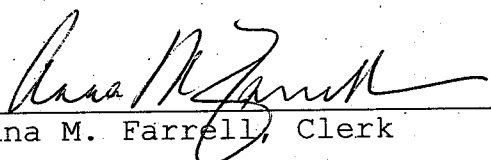
Petitions (cont)

The following Petitions were referred to the Public Works Committee:

198-2016. Councillor Amy Green to install a berm for resident Sandra Szarek residing at 558 Milk St. to stop water damage to the property.

199-2016. Councillor Michael Kushmerek and resident Steven Cristofono to repair and construct disability accessible curbing at the crosswalk located in front of 15 Rollstone St.

The meeting adjourned at 9:35 P.M.

  
Anna M. Farrell, Clerk